

REFERENCE TITLE: **property exemptions; judgments; trusts**

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2487

Introduced by
Representative Weiers J

AN ACT

AMENDING SECTION 33-1126, ARIZONA REVISED STATUTES; RELATING TO PERSONAL PROPERTY EXEMPTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 33-1126, Arizona Revised Statutes, is amended to
3 read:

4 33-1126. Money benefits or proceeds; exception

5 A. The following property of a debtor shall be exempt from execution,
6 attachment or sale on any process issued from any court:

7 1. All money received by or payable to a surviving spouse or child
8 upon the life of a deceased spouse, parent or legal guardian, not exceeding
9 twenty thousand dollars.

10 2. The earnings of the minor child of a debtor or the proceeds thereof
11 by reason of any liability of such debtor not contracted for the special
12 benefit of such minor child.

13 3. All monies received by or payable to a person entitled to receive
14 child support or spousal maintenance pursuant to a court order.

15 4. All money, proceeds or benefits of any kind to be paid in a lump
16 sum or to be rendered on a periodic or installment basis to the insured or
17 any beneficiary under any policy of health, accident or disability insurance
18 or any similar plan or program of benefits in use by any employer, except for
19 premiums payable on such policy or debt of the insured secured by a pledge,
20 and except for collection of any debt or obligation for which the insured or
21 beneficiary has been paid under the plan or policy and except for payment of
22 amounts ordered for support of a person from proceeds and benefits furnished
23 in lieu of earnings which would have been subject to such order and subject
24 to any exemption applicable to earnings so replaced.

25 5. All money arising from any claim for the destruction of, or damage
26 to, exempt property and all proceeds or benefits of any kind arising from
27 fire or other insurance upon any property exempt under this article.

28 6. The cash surrender value of life insurance policies where for a
29 continuous unexpired period of two years such policies have been owned by a
30 debtor and have named as beneficiary **A TRUST OR** the debtor's surviving
31 spouse, child, parent, brother or sister, or any other dependent family
32 member, in the proportion that the policy names any such beneficiary, except
33 that, subject to the statute of limitations, the amount of any premium which
34 is recoverable or avoidable by a creditor pursuant to title 44, chapter 8,
35 article 1, with interest thereon, shall not be exempt. The exemption
36 provided by this paragraph does not apply to a claim for the payment of a
37 debt of the insured or beneficiary that is secured by a pledge or assignment
38 of the cash value of the insurance policy or the proceeds of the policy. For
39 the purposes of this paragraph "dependent" means a family member who is
40 dependent on the insured debtor for not less than half support.

41 7. An annuity contract where for a continuous unexpired period of two
42 years such contract has been owned by a debtor and has named as beneficiary **A**
43 **TRUST OR** the debtor, **THE** debtor's surviving spouse, child, parent, brother or
44 sister, or any other dependent family member, except that, subject to the
45 statute of limitations, the amount of any premium, payment or deposit with

1 respect to such contract is recoverable or avoidable by a creditor pursuant
2 to title 44, chapter 8, article 1 shall not be exempt. The exemption
3 provided by this paragraph does not apply to a claim for a payment of a debt
4 of the annuitant or beneficiary that is secured by a pledge or assignment of
5 the contract or its proceeds. For the purposes of this paragraph,
6 "dependent" means a family member who is dependent on the debtor for not less
7 than half support.

8 8. Any claim for damages recoverable by any person by reason of any
9 levy upon or sale under execution of his exempt personal property or by
10 reason of the wrongful taking or detention of such property by any person,
11 and the judgment recovered for such damages.

12 9. A total of one hundred fifty dollars held in a single account in
13 any one financial institution as defined by section 6-101. The property
14 declared exempt by this paragraph is not exempt from normal service charges
15 assessed against the account by the financial institution at which the
16 account is carried.

17 B. Any money or other assets payable to a participant in or
18 beneficiary of, or any interest of any participant or beneficiary in, a
19 retirement plan under section 401(a), 403(a), 403(b), 408, 408A or 409 or a
20 deferred compensation plan under section 457 of the United States internal
21 revenue code of 1986, as amended, shall be exempt from any and all claims of
22 creditors of the beneficiary or participant. This subsection shall not apply
23 to any of the following:

24 1. An alternate payee under a qualified domestic relations order, as
25 defined in section 414(p) of the United States internal revenue code of 1986,
26 as amended. The interest of any and all alternate payees is exempt from any
27 and all claims of any creditor of the alternate payee.

28 2. Amounts contributed within one hundred twenty days before a debtor
29 files for bankruptcy.

30 3. The assets of bankruptcy proceedings filed before July 1, 1987.

31 C. Any person ~~the age of~~ WHO IS eighteen years or over, married or
32 single, who resides within this state and who does not exercise the homestead
33 exemption under article 1 of this chapter may claim as a personal property
34 homestead exempt from all process prepaid rent, including security deposits
35 as provided in section 33-1321, subsection A, for the claimant's residence,
36 not exceeding the lesser of one thousand dollars or one and one-half months'
37 rent.

38 D. Nothing in this section exempts property from orders which are the
39 result of a judgment for arrearages of child support or for a child support
40 debt.